

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

NEW YORK SPOT, INC.,

Debtor.  
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Chapter 11

Case No.: 11-43785

**STIPULATION PURSUANT TO 11 U.S.C. § 362(d)**  
**MODIFYING THE AUTOMATIC STAY IMPOSED BY 11 U.S.C. § 362(a)**

Upon the motion dated July 22, 2011 (the “Motion”) of West 22<sup>nd</sup>, LLC (the “Creditor”), for an order, pursuant to section 362(d) of title 11 of the United States Code (the “Bankruptcy Code”) vacating the automatic stay imposed in the above-captioned case by section 362(a) of the Bankruptcy Code as to the Creditor’s interests in 442 West 22<sup>nd</sup> Street, New York, New York (the “Property”) to allow the Creditor’s enforcement of its rights in, and remedies in and to, the Property; and due and proper notice of the Motion having been made on all necessary parties; the parties have stipulated and agreed as follows:

1. The automatic stay imposed in this case by section 362(a) of the Bankruptcy Code is vacated under sections 362(d)(1) and (2) of the Bankruptcy Code on consent to allow the Creditor’s enforcement of its rights in, and remedies in and to, the Property, subject to all of the Debtor’s rights pending further proceedings in this Court.

2. This Stipulation is without prejudice to any rights or remedies either of the parties may have under the Bankruptcy Code, including, without limitation, the Debtor’s right to continue the Chapter 11 case and propose and confirm a Chapter 11 plan, and/or to seek to re-impose the automatic stay. By way of further example, notwithstanding any determination by the State Court as to the computation of the amount due by the Debtor to the Creditor, the Debtor’s right to modify such amount under Bankruptcy Code provisions such as sections 1124

and 1129 of the Bankruptcy Code is fully preserved. The Creditor's right to object any relief sought by the Debtor under this paragraph is fully preserved as well.

3. In the event that the Debtor confirms a Chapter 11 Plan before a State Court ordered sale of the Property, upon entry of a confirmation order, this Stipulation shall be deemed vacated.

4. The Stipulation may be executed in counterparts and by electronic signatures and each such counterpart and signature shall be deemed to be an original, but all such counterparts shall together constitute but one and the same agreement.

Dated: August 8, 2011

Goldberg Weprin Finkel Goldstein LLP

Backenroth Frankel and Krinsky, LLP

By: /s/ Kevin Nash, Esq.  
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By: /s/ Mark Frankel, Esq.  
Attorney for West 22<sup>nd</sup> LLC  
489 Fifth Avenue  
New York, New York 10017  
(212) 593-1100

SO ORDERED:

**Dated: Brooklyn, New York  
August 10, 2011**



  
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**Carla E. Craig**  
**United States Bankruptcy Judge**